

## **MINUTES**

### **TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD MEETING RUTH NEFF CONFERENCE ROOM 17<sup>TH</sup> FLOOR, L & C TOWER NASHVILLE, TENNESSEE**

**OCTOBER 1, 2002**

#### **Board Members Present:**

Mr. Wilton Burnett  
Mr. Truman Clark  
Ms. Janet Evans  
Dr. Dennis George  
Mr. Sizwe Herring  
Mr. Joe Mahan  
Mr. J. P. Newman, Chairman  
Mr. Ken Pointer

#### **Board Members Absent:**

Mr. Robert Waddell  
Mr. Bob Whetsel  
Mr. Glenn Youngblood

All Board members were present.

Chairman Newman called the meeting to order at 9:10 a.m. After noting that a quorum was present, he welcomed the Board members and guests.

I. **SOLID WASTE DISPOSAL CONTROL BOARD MATTERS**

A. **Approval of Minutes from the July 9, 2002 Board Meeting**

Chairman Newman asked if the Board members had reviewed the Draft Minutes from the July 9, 2002 Board Meeting. A **motion** was made by Dr. George and **seconded** by Ms. Evans, **to approve the Minutes from the July 9, 2002 Board Meeting. The motion carried unanimously by voice vote.**

B. **Approval of Schedule for Board Meetings in 2003**

Chairman Newman asked if the Board members had reviewed the memo regarding the Schedule for Board Meetings in 2003. A **motion** was made by Mr. Burnett, and **seconded** by Dr. George, **to approve these dates.** There was no discussion, and the **motion carried unanimously by voice vote.**

The dates are as follows:

February 4-5, 2003

April 1-2, 2003

June 3-4, 2003

August 5-6, 2003

October 7-8, 2003

December 2-3, 2003

## **II. GENERAL BUSINESS/STAFF REPORTS**

### **A. Quarterly Report on Hazardous Waste Permitting (October 1, 2001 to September 30, 2002)**

Ms. Jamie Burroughs, in the Treatment, Storage and Disposal Section of the Division of Solid Waste Management, reported on the Hazardous Waste Permitting activities for October 1, 2001 to September 30, 2002.

Chairman Newman thanked Ms. Burroughs for her presentation.

## **III. REGULATORY MATTERS**

### **A. Proposal to Delist Cleveland Plastics, Cleveland, Tennessee (#06-509/Bradley County) from the List of Inactive Hazardous Substances Sites**

Mr. Bob Powell, Enforcement Manager for the Division of Superfund provided Board members an overview regarding the Cleveland Plastics Site. He stated that a public hearing was held on July 18, 2002 in Cleveland, Tennessee to receive comments from the public. There were no attendees and no formal comments received. The Cleveland Plastics site is proposed for removal from the List of Inactive Hazardous Substances sites because the site has been thoroughly investigated and removal and remedial actions have been conducted to remove contaminants and abate environmental concerns at the site. There is no longer a threat to human health or the environment and the Hazardous Waste Remedial Action Fund has absorbed all State costs with a lien in

place to protect cost recovery efforts if future use of the site is proposed by private entities.

After review and discussion by the Board, a **motion** was made by Mr. Clark and **seconded** by Mr. Pointer, to **Delete Cleveland Plastics Site (#06-509/Bradley County) from the List of Inactive Hazardous Substance Sites**. There was no further discussion, and the **motion** carried unanimously by a roll call vote. The vote was as follows:

<b>Burnett</b>	<b>Yes</b>	<b>Clark</b>	<b>Yes</b>
<b>Evans</b>	<b>Yes</b>	<b>George</b>	<b>Yes</b>
<b>Herring</b>	<b>Yes</b>	<b>Mahan</b>	<b>Yes</b>
<b>Newman</b>	<b>Yes</b>	<b>Pointer</b>	<b>Yes</b>
<b>Waddell</b>	<b>Absent</b>	<b>Whetsel</b>	<b>Absent</b>
<b>Youngblood</b>	<b>Absent</b>		

**B. Proposal to Delist Iselin Rail Yard (ICG) Site, Jackson, Tennessee (#57-513/Madison County) from the List of Inactive Hazardous Substances Sites**

Mr. Bob Powell, Enforcement Manager for the Division of Superfund provided Board members an overview regarding the Iselin Rail Yard (ICG) Site. He stated that a public hearing was held on July 22, 2002 in Jackson, Tennessee to receive comments from the public. No formal comments were received during the hearing. The Iselin Rail Yard (ICG) site is proposed for removal from the List of Inactive Hazardous Substances sites because the site has been thoroughly characterized and all hazardous substances associated with the site are minimal and are decreasing in concentration and protected from exposure. Institutional Controls have been established at the site to limit the site use and prevent access to groundwater. A deed restriction outlining these controls has been recorded on the deed. There are currently no risks to public health or the environment posed by this site. All cost recovery issues have been

resolved to the satisfaction of the Commissioner with over \$149,000.00 having been received from the responsible party and only minor administrative costs remaining.

After review and discussion by the Board, a **motion** was made by Mr. Burnett and **seconded** by Dr. George, to **Delete Iselin Rail Yard Site (#57-513/Madison County) from the List of Inactive Hazardous Substance Sites**. There was no further discussion, and the **motion** carried unanimously by a roll call vote. The vote was as follows:

<b>Burnett</b>	<b>Yes</b>	<b>Clark</b>	<b>Yes</b>
<b>Evans</b>	<b>Yes</b>	<b>George</b>	<b>Yes</b>
<b>Herring</b>	<b>Yes</b>	<b>Mahan</b>	<b>Yes</b>
<b>Newman</b>	<b>Yes</b>	<b>Pointer</b>	<b>Yes</b>
<b>Waddell</b>	<b>Absent</b>	<b>Whetsel</b>	<b>Absent</b>
<b>Youngblood</b>	<b>Absent</b>		

#### **IV. AGREED AND CONSENT ORDERS**

##### **A. James Kenneth Culbert, SWM Case #02-0110 (Carter County)**

Mr. Max Fleischer, Assistant General Counsel for the Department distributed copies of his summary, the original Director's Order and the proposed Agreed Order to the Board members for their review.

The summary stated that the Director of the Division of Solid Waste Management issued the Director's Order. The Respondent was directed to clean up the site. The Division identified the site as a solid waste disposal site due to an investigation that revealed that tires, car parts, household furnishings, a water heater, metal barrels and various scrap metals placed on the Respondent's property. The site was not cleaned up despite repeated contact by the Division.

The Order and Assessment in this case required the clean-up if the site and assessed damages of \$166.40. The Order also assessed civil penalties of \$5,000.00 dollars, of which one thousand dollars was required to be paid within thirty (30) days of the Respondent's receipt of the Order. The remaining \$4,000.00 dollars is required to be paid within one hundred eighty days of the Respondents' receipt of the Order unless the Respondent demonstrates to the satisfaction of the Division that the site had been cleaned up to the satisfaction of the Division. The Respondent appealed the Director's Order.

As of June 3, 2002, the site had been cleaned up to the satisfaction of the Division. The attached Agreed Order assesses civil penalties of \$750.00 and damages of \$166.40. The seven hundred fifty dollar civil penalty represents a twenty-five percent reduction of the non-contingent part of the civil penalty originally assessed in the Director's Order.

After review and discussion a **motion** was made by Dr. George, and **seconded** by Mr. Pointer, **to approve the proposed Agreed Order**. There was no further discussion, **and the motion carried unanimously by voice vote**.

## **V. OTHER BUSINESS**

Mr. Jerry Ingram, Manager, Program Development Section for the Division of Solid Waste Management's (DSWM) Hazardous Waste Program updated the Board on revision "v" and "v-1". Revision "v" became effective on July 22, 2002. Revision "v-1" is targeted to become effective on October 8, 2002. Also, Mr. Ingram stated that a Rulemaking Hearing would be held on November 19, 2002 at 1:00 PM CST in the 5<sup>th</sup> Floor Conference Room, L & C Tower, 401 Church Street, Nashville, Tennessee to consider the adoption and promulgation of rules and amendments to rules (revision "w").

Mr. Ingram distributed copies of the Hazardous Waste Generator Fee Determination Sheet; Initial Spill and/or Accidental Discharge Investigation Fee Invoice and the Incident Response Report which he provided a brief summary of each form and the changes made to the form as well as explaining the intent of how the forms will be used. Also, distributed was a **draft** "Policy of Fee Collection for Oversight of Spill or Accidental Discharge of Hazardous Waste".

Chairman Newman stated that at the last board meeting it was decided by the board members to draft a letter to the Commissioner of the Tennessee Department of Personnel. The Board approved the fee increases based on an understanding that these additional fees would be used to provide funding for additional staff and an improvement of the salaries and benefits of the existing staff of the environmental regulatory programs. The letter states that the effective use of this fee increase, which is intended to serve as a dedicated revenue source in achieving its stated goals, will be considered by the Board before any additional fee increases are authorized for subsequent fiscal years. In fact, the recently approved fee increases will be re-evaluated and removed if appropriate use of these funds cannot be demonstrated. A **motion** was made by Mr. Mahan and **seconded** by Dr. George to submit to the Commissioner of the Department of Personnel the shorter version of the letter. There was no further discussion, **and the motion carried unanimously by voice vote.**

Mr. Mike Apple distributed copies of the FY-2001/02 Annual Performance Review from EPA to the board members for their review. Mr. Apple's comments were that we received an excellent review from EPA. The Division accomplished all goals and met their program requirements. There is a small problem with data management but the Division is working on correcting this now.

A question was asked at the last board meeting regarding the issue of non-notifiers that was placed in the EPA grant this year. We are establishing a non-notifier program to try to attain compliance of people that are slipping through the system.

Mr. Apple provided a brief overview regarding the budget for the Division of Solid Waste Management. Mr. Apple stated he would bring a breakdown report on Budget 01 and 30.

Mr. Apple reported to the board on several “**hot spots**” which involved the Division of Solid Waste Management. Listed as the following:

1. The train wreck in Knoxville is almost cleaned up (spill).
2. The Costner Shop, in East Tennessee, had illegal dumping from a Brownsfield site, and the City is involved and we received plans for cleanup and this should be cleaned up within the next 60 days.
3. Wheeler Foundry in Chattanooga went bankrupt and we are in the midst of doing the cleaning up on it and the City of Chattanooga make sure it is cleaned up where they can redevelop the property.
4. Cypress Creek and Velsicol in Memphis we are investigating and have found high levels of pesticides caused in the 1960’s— ongoing effort to cleanup.
5. Show Me Farms (sludge composting site) is almost cleaned up.
6. Nashville Thermal Plant is running on emergency coolers and proposes development of a generator plant. They are still hauling waste from the old plant.

**There was no further business by the Board or staff; a Motion was made by Mr. Burnett to Adjourn at 10:45 a.m. on Tuesday, October 1, 2002.**



**SUBMITTED BY:**

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**Mike Apple, Technical Secretary**

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**Date**

**APPROVED BY:**

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**J.P. Newman, Chairman**  
**Solid Waste Disposal Control Board**

\_\_\_\_\_  
**Date**